

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 4/10/08 (v)

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ROBERT CHAPPELLE,

: 06 Civ. 10201 (SHS)

Petitioner,

:

-against-

:

ORDER

BRIAN FISHER, Superintendent of Sing Sing
Correctional Facility,

:

:

Respondent.
-----X

SIDNEY H. STEIN, U.S. District Judge.

In a Report and Recommendation dated January 16, 2008, Magistrate Judge Douglas F. Eaton recommended that this petition for a writ of *habeas corpus* be denied. After a *de novo* review of Magistrate Judge Gorenstein's Report and Recommendation dated January 16, 2008, and petitioner's objections received by this Court on February 26, 2008,

IT IS HEREBY ORDERED that:

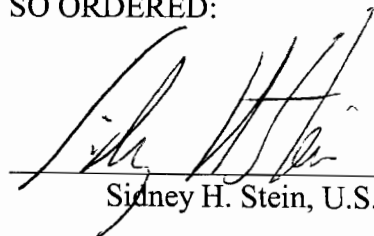
1. Magistrate Judge Eaton's "Report and Recommendation" is adopted;
2. The petition pursuant to 28 U.S.C. § 2254 is dismissed;
3. As petitioner has not made a substantial showing of the denial of a

constitutional right, a certificate of appealability will not issue. 28 U.S.C. § 2253 (as amended by the AEDPA); Middleton v. Attorneys Gen. of New York and Pennsylvania, 396 F.3d 207 (2d Cir. 2005) (per curiam); Lucidore v. New York State Div. of Parole, 209 F.3d 107, 111-13 (2d Cir. 2000); Soto v. United States, 185 F.3d 48, 51-53 (2d Cir. 1997); United States v. Perez, 129 F.3d 255, 259-60 (2d Cir. 1997), cert. denied, 525 U.S. 953 (1998); and

4. Pursuant to 28 U.S.C. § 1915(a) the Court certifies that any appeal from this Order would not be taken in good faith.

Dated: New York, New York
April 10, 2008

SO ORDERED:

A handwritten signature in black ink, appearing to read 'S. H. Stein', is written over a horizontal line.

Sidney H. Stein, U.S.D.J.